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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,741	11/14/2005	Hiroyuki Aburatani	392.1001	4248

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485 SEVENTH AVENUE, 14TH FLOOR
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EXAMINER

REDDIG, PETER J

ART UNIT	PAPER NUMBER
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1642

MAIL DATE	DELIVERY MODE
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08/14/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/526,741

Applicant(s)

ABURATANI ET AL.

Examiner

Peter J. Reddig

Art Unit

1642

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

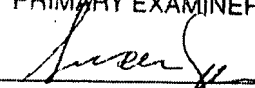
AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 7/11/2007
13. ☐ Other: _____

SUSAN UNGAR, PH.D.
PRIMARY EXAMINER



Continuation of 3. NOTE: The amendment to claim 9 broadens the scope of the claims as the claim is now drawn to an isolated monoclonal antibody that has "a cytotoxic activity against the cell line HepG-2 or Huh-7". This limitation would require an additional search. Additionally a review of the specification and claims as originally filed and Applicants' cited support did not reveal support for a monoclonal antibody with cytotoxicity against the cell line HepG-2 or Huh-7. Thus this amendment raises new issues of written description and enablement.

Claims 12, 13, 21, 22 remain rejected under 35 USC 112, first and second paragraphs for the reasons previously set forth in the paper mailed 03/09/2007, pages 4-7

Applicant argues that the claims have been canceled and that therefore all of the rejections should be withdrawn. The argument has been considered but has not been found persuasive because the amendment has not been and will not be entered for the reasons set forth above and therefore none of the claims have been canceled and the rejections remain

Claims 9 and 19 remain rejected under 35 USC 102(b) for the reasons previously set forth in the paper mailed 03/09/2007, pages 7-9. Applicant argues that claim 9 has been amended and claim 19 has been canceled and the prior art does not recite the limitations of the newly amended claim 9.

The argument has been considered but has not been found persuasive because Applicant is arguing limitations not recited in the claims as currently constituted and the amendment has not been and will not be entered for the reasons set forth above and therefore none of the claims have been canceled and the rejections remain

Claims 9, 13, 19, 21 and 22 remain rejected under 35 USC 102(e) for the reasons previously set forth in the paper mailed 03/09/2007, pages 7-9.

Applicant argues that claim 9 has been amended and claim 13, 19, 21, and 22 have been canceled and the prior art does not recite the limitations of the newly amended claim 9.

The argument has been considered but has not been found persuasive because Applicant is arguing limitations not recited in the claims as currently constituted and the amendment has not been and will not be entered for the reasons set forth above and therefore none of the claims have been canceled and the rejections remain

The Declaration under 37 CFR 1.132 filed December 14, 2006 is insufficient to overcome the rejection of claims 9, 13, 19, 21, and 22 based upon US Pat. App. Pub 2004/0236080 for the reason previously set forth and above because if Iwao Ohizumi is the inventor of the disclosed subject matter, the invention would still be by another given that the instant application has five additional inventors in addition to Iwao Ohizumi